

OCA 87-5997
9 December 1987

MEMORANDUM FOR: Chief, Logistics & Procurement Law Division
Office of General Counsel

FROM: [redacted] Legislation Division
Office of Congressional Affairs

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SUBJECT: Capital Ownership Development Reform Act of 1987
H.R. 1807

1. On 1 December 1987, the House passed the above-captioned bill, which is designed to stimulate competition by small businesses owned by socially and economically disadvantaged persons. Attached is a copy for your review. You may be particularly interested in sections 10 and 11 which amend what is currently 15 U.S.C. § 637. These sections pertain to the awarding of contracts, including sole source contracts.

2. This bill has been referred to the Senate Committee on Small Business, which may be acting on it next week. Should the Agency have problems with the bill and you wish us to seek a legislative remedy, please telephone me at your earliest convenience on [redacted] so that we can discuss these concerns.

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Attachment

Distribution:

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CONGRESSIONAL RECORD—HOUSE

December 1, 1987

ams carried out on the adjacent Nellis Air Force range. Because of the activities conducted on the Nellis Air Force range, it is essential that the lands covered by this provision be closed to unauthorized access or use. If this withdrawal is not renewed by December 31, 1987, the Air Force will have no legal authority to keep the public off of these lands.

It is for these reasons that the Armed Services Committee has agreed to allow this provision to be attached to the bill before us today and to support its passage. Although no hearings have been held on this particular provision of the bill, the committee is quite familiar with the issue and the provisions of the Military Lands Withdrawal Act of 1986. We believe that this is the best way to handle this withdrawal action and still meet the December 31, 1987, deadline. Attached to my statement is a copy of a letter from the Assistant Secretary of the Air Force supporting this provision and its inclusion in H.R. 2142 and I would ask that it also be included in the RECORD.

Finally, I urge my colleagues to support this legislation on behalf of the Committee on Armed Services.

DEPARTMENT OF THE AIR FORCE,
Washington, DC, November 20, 1987.

Hon. Les ASPIN,
Chairman, Committee on Armed Services,
House of Representatives, Washington,
DC.

DEAR MR. CHAIRMAN: This is to confirm the Air Force position on the Groom Mountain Land Withdrawal language in H.R. 2142, Nevada Wilderness Designation Act of 1987.

The language concerning the Groom Mountain Land Withdrawal is satisfactory and will accomplish the desired action of renewing the withdrawal and incorporating it into the Nellis Range legislation. We appreciate the support of the Committee on Interior and Insular Affairs in moving the legislation through the House of Representatives. We hope that you will support it as it comes before the House.

We do have some concern that H.R. 2142 might become stalled in the Senate. If this occurs, I may need to request your aid to complete the withdrawal legislation. If the Groom Mountain Withdrawal is not renewed before December 31, 1987, the Air Force will be placed in a situation of needing to control surface access to these public lands for vital national security considerations, but without the legal means to do so. That situation would be most difficult to deal with and could cause serious delays to extremely important classified projects.

Again, I appreciate your support in this matter.

Sincerely,

TIDAL W. MCCOY,
Assistant Secretary of the Air Force
(Readiness Support).

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank both the gentlewoman from Nevada and the gentleman from Nevada for their cooperation and support in trying to exercise our responsibilities.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Hoyer). The question is on the motion offered by the gentleman from Minne-

sota (Mr. Vento) that the House suspend the rules and pass the bill, H.R. 2142, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CAPITAL OWNERSHIP DEVELOPMENT REFORM ACT OF 1987

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1807), to amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes.

The Clerk read as follows:

H.R. 1807

SECTION 1. SHORT TITLE.

This Act may be cited as the "Capital Ownership Development Reform Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Capital Ownership Development Program administered by the Small Business Administration, and the award of contracts pursuant to section 8(a) of the Small Business Act to firms participating in such program, are intended to help socially and economically disadvantaged individuals enter the mainstream of the American economy;

(2) although some progress has resulted from the program, it has generally failed to meet its objectives, which remain as valid now as when the program was initiated;

(3) the Small Business Administration and some program participants have given insufficient attention and support to the business development goals of the program and instead has focused almost entirely on the size of contract awards or the number of firms certified to participate in the program; and

(4) it is necessary to reform substantially such program and provide for competition within the program in order to promote Congressionally mandated business development objectives and purposes of the program.

(b) PURPOSES.—It is, therefore, the purpose of this Act to—

(1) affirm that the Capital Ownership Development Program and the section 8(a) authority shall be used exclusively for business development purposes to help small businesses owned by the socially and economically disadvantaged to compete on an equal basis in the mainstream of the American economy;

(2) affirm that the measure of success of the Capital Ownership Development Program, and the section 8(a) authority, shall be the number of competitive firms that exit the program, without being unreasonably reliant on section 8(a) contracts, and that are able to compete on an equal basis in the mainstream of the American economy; and

(3) insure that program benefits accrue to individuals who are both socially and economically disadvantaged.

SEC. 3. BUSINESS DEVELOPMENT OBJECTIVES.

(a) TECHNICAL AMENDMENT.—Section 3(c)(2)(A)(v) of the Small Business Act is amended by striking "sole source".

(b) PROGRAM PURPOSES.—

(1) Section 2(c)(2)(B) of the Small Business Act is amended to read as follows:

"(B) it is, therefore, the purpose of the programs authorized by section 7(j) of this Act to—

"(i) foster business ownership and development by individuals in groups that own and control little productive capital; and

"(ii) promote the competitive viability of such firms in the marketplace by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary."

(2) Section 2(e)(2) of the Small Business Act is amended to read as follows:

"(2) It is, therefore, the purpose of section 8(a) to—

"(A) promote the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete on an equal basis in the American economy;

"(B) promote the competitive viability of such concerns in the marketplace by providing such available contract, financial, technical, and management assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals."

SEC. 4. REQUIREMENTS OF THE CAPITAL OWNERSHIP DEVELOPMENT PROGRAM.

(a) BUSINESS PLANS.—Section 7(j)(10)(A)(i) of the Small Business Act is amended to read as follows:

"(i) assist small business concerns participating in the program to develop comprehensive business plans with specific business targets, objectives, and goals that are realistic and within the capability of both the program and the participating concern. Such targets, objectives, and goals shall be designed to result in a competitive small business concern by eliminating those conditions or circumstances upon which the Administration originally determined eligibility pursuant to section 9(a)(6);"

(b) TRAINING SESSIONS.—Section 7(j)(10)(A) is amended by—

(1) striking "and" at the end of clause (v);

(2) striking the period at the end of clause (vi) and by inserting in lieu thereof "; and"; and

(3) by adding the following new clause:

"(vii) conduct training sessions to assist individuals and enterprises eligible to receive contracts under section 8(a) in the development of business principles and strategies to enhance their ability to successfully compete for contracts in the marketplace."

SEC. 5. EFFECT ON PRESENT PROGRAM PARTICIPANTS.

Section 7(j)(10) of the Small Business Act is amended by adding the following new subparagraph:

"(D) A small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 8(a) on the effective date of this subparagraph shall be permitted continued participation and eligibility in such program or activity for a period of time which is the greater of—

"(i) 9 years less the number of years since the award of its first contract pursuant to section 8(a); or

"(ii) its original fixed program participation term (plus any extension thereof) assigned prior to the effective date of this subparagraph.

Nothing contained in this subparagraph shall be deemed to prevent the Administra-